

## **REMARKS**

Claims 1-20 are pending in the present application. By this Preliminary Amendment, claims 1, 2, 5, 10, and 18 are currently amended. Claims 1, 2, 5, 10, and 18 are amended in accordance with the results of a telephone interview with the Examiner. In the course of the conversations, the Examiner raised issues regarding 35 USC 101, 112, 102 and 103. The Applicant responded to each point raised by the examiner, and made suggestions for Amendments, all of which are now incorporated in the current amendments. No new matter has been introduced by any of the amendments.

### **I. SUMMARY OF INTERVIEW FROM 11 MARCH 2008**

The Examiner, Applicant, and Attorney for the Applicant conducted a thorough interview on 11 March 2008. During this interview the rejections were discussed, as well as other possible basis of rejection. In the course of the conversations, the Examiner raised issues regarding 35 USC 101, 112, 102 and 103. The Applicant responded to each point raised by the examiner, and made suggestions for Amendments, all of which are now incorporated in the Proposed Amendments, above. The Examiner agreed that the Proposed Amendments address and resolve all issues related to rejections under 35 USC 101, 112, and 102. The Applicant and Attorney for the Applicant continued the interview by forwarding arguments as to why the cited references are either non-analogous art, and/or do not actually teach the limitations of the claims. These arguments are summarized in the below REMARKS section. The Applicant and Attorney for Applicant stated that they believe that the reasoning presented along with the proposed amendments place the application in condition for allowance, and the Examiner indicated that he now understands the arguments, and needs to review them and conduct a supplemental patent search before making a final determination. The interview concluded with the Examiner stating that we would have a follow-up interview in early April. The Examiner is thanked for his time and consideration.

## **II. Rejections Under 35 U.S.C. §103**

Independent claims 1, 10, and 18 have previously been rejected under 35 U.S.C. § 103.

### *Ragsdale*

*Ragsdale* teaches a “maitre d’ system and method which provides electronic interactive communication with a waiter/waitress . . . a pager unit configured to fit in the palm of a waiter/waitress . . .” See *Ragsdale’s* Abstract.

*Ragsdale* is specifically directed toward generating revenue *from* “food, retail merchandise, and liquor” (Generally, paragraph 16).

*Ragsdale* always contemplates communication with a maitre d’; whereas the teachings of the present invention, and the elements of the Applicant’s claims always call out and contemplate the elimination of communications with a maitre d’ or other wait staff.

*Ragsdale* is . . . a pager unit configured to fit in the palm of a waiter/waitress . . .” See *Ragsdale’s* Abstract.

### *Miller*

*Miller* teaches a video-conference system to provide restaurant patrons the ability to communicate booth-to-booth between each other. See *Miller’s* Abstract.

*Miller* does not address the problem of customer ordering, service, or check-out; for instance, *Miller* states that his system generates revenue “beyond the conventional restaurant revenue sources of food, retail merchandise, and liquor . . .” (Column 1, lines 30-36).

*Miller* is a video conferencing system. See *Miller’s* Abstract.

### *Mayer*

*Mayer* is cited (Paragraphs 25, 35, and 36) in combination with *Miller* and *Ragsdale* for teaching the limitation “without the participation of wait staff.” A close reading of *Mayer* during the interview demonstrated that *Mayer* actually teaches the interaction with wait staff. Nevertheless, the limitation “without the participation of wait

staff” was discussed as being an unnecessary limitation and is deleted from the claims. Therefore, *Mayer* is not discussed in more detail below.

#### Claim 1

A more full review of *Miller* Column 8 line 53 through Column 9, line 8 shows that *Miller* does not teach “a software program that receives, at least one customer unit request of at least one service from a restaurant.” Rather, the cited portion of *Miller* describes future applications of *Miller’s* invention (which still rely on wait-staff). As *Miller* states in the cited Column 8 line 59 “. . . by the presence of waiters in the restaurant . . .”

#### Claim 10

*Miller* is represented as teaching, in Col 5, lines 60 – Col. 6, line 6; Col. 8, line 53 to Col. 9, line 8), and *Ragsdale* in Paragraphs 0046, 0053, 0054, as teaching the limitations of claim 10.

*Miller* states from column 5 line 60 through column six line 6: “guest information flows automatically in a customer database for easy future booking, marketing, programs, and potential mailing list sales. Credit card information from initial reservation flows into restaurant POS (Point of Sale) system for easy bill payment. . . . [the remaining relating to intra-customer-booth-video communication].”

This is not a “software program that receives a customer unit request of at least one service from a restaurant, the restaurant having a customer managed post-dining system.”

Further, *Ragsdale* requires a maitre d’, does not track nor aggregate a bill, nor assign a gratuity.

#### Claim 18

The Examiner cites *Miller* (Col. 6. lines 20-28; Col. 8, lines 7-24; Col. 8, lines 28-52), and *Ragsdale* (Paragraphs 16 and 53) as teaching identifying a number of people at a table; identifying a person associated with a menu item, splitting at least one restaurant

item between at least two people; monitoring a bill balance; and; closing an individual bill balance [for one of the at least two people]. A close examination of these sections of Miller and Ragsdale demonstrate that they do not. For example, Ragsdale does not teach, show or suggest splitting at least one restaurant item between at least two people as claimed by the Applicant.

Thus, it is believed that the pending claims are allowable, and allowance of said claims is respectfully requested. Other references made of record but not relied upon in the Office Action are considered no more relevant to the invention than the reference relied upon by the Examiner.

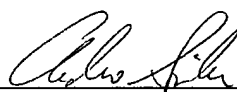
If the Examiner has other matters which remain, the Examiner is encouraged to contact the undersigned to resolve these matters by Examiners Amendment where possible.

### **III. Conclusion**

It is respectfully urged that the subject application is patentable over the prior art of record and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

Respectfully submitted,

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Andrew Silver  
5830 Silver Spur  
Frisco, TX 75034  
(972) 814-4490